

ISRAEL GOLDOWITZ
Chief Counsel
KAREN L. MORRIS
Deputy Chief Counsel
STEPHANIE THOMAS
Assistant Chief Counsel
SARA B. EAGLE (*Pro Hac Vice*)
COLIN B. ALBAUGH (*Pro Hac Vice*)
Attorneys
PENSION BENEFIT GUARANTY
CORPORATION
Office of the Chief Counsel
1200 K Street, N.W.
Washington, D.C. 20005-4026
Ph: (202) 326-4020, extension 3176
Fax: (202) 326-4112

Hearing Date and Time: October 16 at 10:00 a.m. (EST)
Objection Date and Time: October 13 at 4:00 p.m. (EST)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**LEHMAN BROTHERS
HOLDINGS INC., *et al.*,**

Debtors.

Chapter 11

Case No. 08-13555 (JMP)

Jointly Administered

**RESPONSE OF THE PENSION BENEFIT GUARANTY
CORPORATION TO DEBTORS' MOTION FOR ENTRY OF AN ORDER
PURSUANT TO SECTIONS 363 AND 365 OF THE BANKRUPTCY CODE AND
FEDERAL RULES OF BANKRUPTCY PROCEDURE 6004, 6006 AND 9019
AUTHORIZING LEHMAN BROTHERS HOLDINGS INC. TO (A) ENTER INTO A
PARTNERSHIP INTEREST PURCHASE AGREEMENT, (B) COMPROMISE AND
RELEASE A PORTION OF AN INTERCOMPANY LOAN, AND (C) ASSIGN THE
REMAINDER OF SUCH INTERCOMPANY LOAN TO PURCHASERS**

TO THE HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE:

Pension Benefit Guaranty Corporation ("PBGC"), a United States government agency,
responds to Debtors' October 1, 2008 Motion For Entry of an Order Pursuant to Sections 363 and

365 of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure 6004, 6006 and 9019 Authorizing Lehman Brothers Holdings Inc. to (A) Enter into a Partnership Interest Purchase Agreement, (B) Compromise and Release a Portion of an Intercompany Loan, and (C) Assign the Remainder of Such Intercompany Loan to Purchasers, to provide clarification.

The Debtors request authorization for Lehman Brothers Holdings Inc. (“LBHI”) and certain of its subsidiaries to sell their partnership interests in Eagle Energy Partners I, L.P. (“Eagle”). Section 5.17(b) of the Purchase Agreement provides that Eagle has no obligations or liability under any Benefit Plans, which is defined to include employee benefit plans covered by Title IV of the Employee Retirement Income Security Act of 1974 (“ERISA”), *as amended*, 29 U.S.C. §§ 1301-1461.

LBHI, however, sponsors the Lehman Brothers Holdings Inc. Retirement Plan (“Pension Plan”), a defined benefit pension plan covered by Title IV of ERISA. Eagle is a member of LBHI’s controlled group in accordance with ERISA.¹ Pursuant to ERISA, if the Pension Plan terminates, LBHI and all members of its controlled group are jointly and severally liable for any underfunding arising upon the date of the Pension Plan’s termination.² Each controlled group member is also jointly and severally liable for any minimum funding contributions owed to the

¹ See 29 U.S.C. § 1301(a)(14).

² 29 U.S.C. §§ 1301(a)(18), 1362(b). In a PBGC-initiated termination, the date of plan termination may be retroactive under certain circumstances.

Pension Plan and any insurance premiums owed to PBGC regardless of whether the Pension Plan terminates.³ PBGC estimates that the current unfunded benefit liabilities for the Pension Plan are \$72,500,000.

Dated: Washington, D.C.
October 10, 2008

Respectfully submitted,

/s/ Colin B. Albaugh
ISRAEL GOLDOWITZ
Chief Counsel
KAREN L. MORRIS
Deputy Chief Counsel
STEPHANIE THOMAS
Assistant Chief Counsel
SARA B. EAGLE (*Pro Hac Vice*)
COLIN B. ALBAUGH (*Pro Hac Vice*)
Attorneys
PENSION BENEFIT GUARANTY
CORPORATION
Office of the Chief Counsel
1200 K Street, N.W.
Washington, D.C. 20005-4026
Ph: (202) 326-4020, extension 3176
Fax: (202) 326-4112
Emails: albaugh.colin@pbgc.gov
efile@pbgc.gov

Attorneys for the Pension Benefit Guaranty
Corporation

³ See 26 U.S.C. § 412(c)(11); 29 U.S.C. §§ 1082(c)(11); 1307. For pension plan years beginning after December 31, 2007, see 26 U.S.C. § 412(b)(1) & (2); 29 U.S.C. § 1082(b)(1) & (2).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response of the Pension Benefit Guaranty Corporation to Debtors' Motion For Entry of an Order Pursuant to Sections 363 and 365 of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure 6004, 6006 and 9019 Authorizing Lehman Brothers Holdings Inc. to (A) Enter into a Partnership Interest Purchase Agreement, (B) Compromise and Release a Portion of an Intercompany Loan, and (C) Assign the Remainder of Such Intercompany Loan to Purchasers was served electronically and/or by first class mail, unless otherwise indicated, this 10th day of October 2008, on the following:

The Honorable James M. Peck
United States Bankruptcy Court
for the Southern District of New York
One Bowling Green
New York, N.Y. 10004
Courtroom 601
(by overnight mail)

Richard P. Krasnow, Esq.
Lori R. Fife, Esq.
Shai Y. Waisman, Esq.
Jacqueline Marcus, Esq.
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

Andy Velez-Rivera, Esq.
Paul Swartzberg, Esq.
Brian Masumota, Esq.
Linda Riffkin, Esq.
Tracy Hope Davis, Esq.
Office of the United States Trustee
33 Whitehall Street, 21st Floor
New York, NY 10004

Dennis F. Dunne, Esq.
Dennis O'Donnell, Esq.
Evan Fleck, Esq.
Milbank, Tweed, Hadley & McCloy LLP
One Chase Manhattan Plaza
New York, NY 10005

Lindsee P. Granfield, Esq.
Lisa Schweiger, Esq.
Cleary Gottlieb LLP
One Liberty Plaza
New York, NY 10006

Robinson B. Lacy, Esq.
Hydee R. Feldsteen, Esq.
Sullivan & Cromwell, LLP
125 Broad Street
New York, NY 10004

Jeff Schlegel, Esq.
Jones Day
717 Texas, Suite 3300
Houston, Texas 77002
(by overnight mail)

/s/ Colin B. Albaugh
Colin B. Albaugh (*Pro Hac Vice*)
Attorney for the Pension Benefit Guaranty Corp.